

LORI MARIE JOHNSON,)
)
 Plaintiff,)
)
 v.) No.: 3:08-CV-222
) (VARLAN/SHIRLEY)
 MICHAEL J. ASTRUE,)
 Commissioner of Social Security,)
)
 Defendant.)

This Social Security appeal is before the Court on the Report and Recommendation filed by United States Magistrate Judge C. Clifford Shirley on June 23, 2009. [Doc. 13.] There have been no timely objections to the Report and Recommendation, and enough time has passed since the filing of the Report and Recommendation to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Magistrate Judge Shirley found that the defendant Commissioner's motion for summary judgment [Doc. 11] should be denied and that plaintiff's motion for summary judgment [Doc. 9] should be granted for purposes of remanding the case for further consideration by the defendant Commissioner.

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it is **ORDERED** that: Plaintiff's motion for summary judgment [Doc. 9] is **GRANTED** only for remanding the case; the Commissioner's motion for summary judgment [Doc. 11] is **DENIED**; the Commissioner's decision in this case denying plaintiff's application for benefits under the Social Security Act is **REVERSED**; and this case is **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for a new hearing consistent with this opinion and Magistrate Judge Shirley's Report and Recommendation.

IT IS SO ORDERED.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE